

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

vs.

Case No. 3:03cr109
(Related Civil Case 3:04cv442)

CHRISTOPHER L. CAMPBELL,

JUDGE WALTER HERBERT RICE

Defendant-Petitioner.

PURPOSE OF WITHIN ENTRY; DECISION AND ENTRY ADOPTING TWO REPORTS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE (DOCS. #43 AND #51), AND OVERRULING DEFENDANT-PETITIONER'S OBJECTIONS (DOC. #52) TO PREVIOUS JUDICIAL FILINGS; ALL MATTERS RESOLVED IN THE DISTRICT COURT; TERMINATION ENTRY

The procedural posture of the captioned cause is, to put it somewhat mildly, a tad confusing, due in no small part to Defendant-Petitioner's proclivity for filing Notices of Appeal and/or Motions for Certificate of Appealability, either in untimely fashion or in lieu of documents that should be first filed. It is the purpose of this filing to rule on all outstanding matters in the trial court, in order to clear the "decks" for the appellate process. In so doing, this Court is mindful of the fact that the Sixth Circuit has already taken two actions in the captioned cause, to wit:

1. On February 14, 2006, the Sixth Circuit filed an Order dismissing Defendant-Petitioner's appeal as it applied to the March 9, 2005, Judgment and declaring that the Defendant-Petitioner's appeal remained pending as it applied to the May 20, 2005, Order. A review of the docket sheet in the captioned matters reveals that the appellate court is, undoubtedly, referring to the March 7, 2005, Judgment, denying Defendant-Petitioner's Motion to Vacate under 28 U.S.C. 2255, as well as denying any application for Certificate of Appealability and request to appeal *in forma pauperis*. Reference to the May 20, 2005, Order apparently refers to the May 30, 2005, Order granting the Motion by the Defendant-Petitioner for an extension of time to file a Certificate of Appealability.

2. On April 18, 2007, the Sixth Circuit denied the Defendant-Petitioner a Certificate of Appealability, and held the Motion to Proceed *In Forma Pauperis* moot, on Plaintiff's appeal from the District Court Order denying Defendant-Petitioner's Motion for Reconsideration of the District Court's Judgment.

The confusion begins with the fact that the District Court has not officially adopted, at least heretofore, the Report and Recommendations of the United States Magistrate Judge (Doc. #43), denying the Defendant-Petitioner's Motion to Reconsider, as untimely filed.

Hopefully, the following rulings will allow whatever process that needs to be taken, if any, to proceed in the appellate court.

The Report and Recommendations of the United States Magistrate Judge (Doc. #43), overruling the Defendant-Petitioner's Motion to Reconsider the denial of his 2255 Motion (Doc. #42) as untimely, is adopted in its entirety.

The Report and Recommendations of the United States Magistrate Judge (Doc. #51), recommending that the Defendant-Petitioner's Motion for Certificate of Appealability (Doc. #48) be denied, is adopted in its entirety.

The Defendant-Petitioners Objection (Doc. #52) to the Report and Recommendation of the United States Magistrate Judge, whether directed to the Initial Report and Recommendations, recommending denial of his Motion to Vacate, pursuant to 28 U.S.C. § 2255; the Report and Recommendations recommending denial of his Motion for Reconsideration (Doc. #43) or that recommending denial of his Motion for Certificate of Appealability (Doc. #51), are, each in their entirety, overruled.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

February 4, 2008

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Vipal Patel, Esq.

Christopher L. Campbell, Pro Se

Chief Magistrate Judge Michael R. Merz